

Jonathan L. Sessler Under 37 C.F.R. § 1.132 dated July 25, 2003 (“Original Sessler Declaration”).

Applicants then timely filed a Notice of Appeal From Primary Examiner to the Board of Patent Appeals and Interferences dated September 8, 2003. Subsequently, in the Advisory Action dated September 9, 2003 (Paper No. 88), the Examiner stated that the aforementioned Request for Reconsideration and Original Sessler Declaration did not place the application in condition for allowance because the use of the phrase “and/or” in paragraph 4 of the Original Sessler Declaration allowed for a single inventor and thereby raised “issues of inventorship.”

The applicants respectfully disagree with the Examiner and maintain the traversal of the rejection. Paragraph 4 of the Declaration merely states that the subject matter of each of the claims was invented by one or more of the named inventors (Drs. Sessler, Anzenbacher, Marquez, Shriver) either individually or jointly. Such statement is entirely proper; an individual is properly and correctly named an inventor if he contributed either jointly or individually to merely one of the claims of the joint application. 37 C.F.R. § 1.45. Thus, no issues of inventorship are raised by Paragraph 4.

The applicants’ representative has made numerous telephone calls to the Examiner in an attempt to clear up this minor issue. None of these calls has been returned. The applicants respectfully request that should the Examiner disagree with the argument presented above, he contact the undersigned immediately so that the issues can be resolved in a timely and efficient manner. The Examiner’s cooperation is appreciated.

Based on the foregoing Remarks, it is respectfully submitted that the application is in condition for allowance. Reconsideration and allowance of the claims is respectfully requested.

Respectfully submitted,

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Date

6 January 2004

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Enclosure: Petition for Extension of Time (Two Months)

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